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§25-8-32. Synopsis

The Legislature has found that Alabama law has not kept pace with federal standards regulating the employment of minors to the extent that it has become increasingly difficult for employers to comply with conflicting state and federal child labor requirements.

Accordingly, numerous changes, are necessary to make the child labor laws of Alabama compatible with the United States Department of Labor regulations governing the employment of minors in nonagricultural occupations. Similarly, there is also a need to remove anachronistic language and make clarifications to existing standards.

In view of the foregoing findings, the Legislature through this act intends to do all of the following:

- (1) Conform with 17 federal hazardous orders.
- (2) Remove exemptions for domestic service and the grading or handling, or both, of agricultural products.
- (3) Add a restriction for occupations which involve working at heights exceeding six feet, as well as working in junk yards, scrap metal yards, or lumber yards.
- (4) Set hour restrictions which coincide with federal law for 14-and 15-year-olds.
- (5) Clarify waiver of school attendance which allows 14- and 15-year-olds to work until 9:00 p.m.
- (6) Require employers to post hour restrictions and work schedules for employees under 18 years of age, and add a meal break requirement for 14- and 15-year-olds.
- (7) Increase age requirements from 12 to 14 years of age to sell items on streets, and from 10 to 12 years of age to deliver newspapers.
- (8) More clearly define prohibited occupations and places of employment for minors under 18 years of age.
- (9) Prohibit persons under 18 years of age from performing nude or partially nude in any business establishment.
- (10) Exempt federally funded summer youth program personnel from obtaining work permits.

(11) Add a whistleblower provision protecting employees and other individuals from being discriminated against as a result of disclosing information, making a charge, or refusing to obey an illegal order.

(12) Increase the penalty for street trades violations from ten dollars (\$10) to fifty dollars(\$50) to one hundred dollars (\$100) to five hundred dollars (\$500) per violation.

(13) Require reporting of names of child models under 18 years of age placing responsibility on employers and parents for the care and schooling of the child for ensuring that school performance will not suffer due to the child working.

§25-8-32.1. Definitions

For the purposes of this chapter, the following words and phrases shall have the following meanings:

(1) COMMISSIONER -The Commissioner of the Department of Labor

(2) DEPARTMENT-The Department of Labor

(3) ELIGIBILITY TO WORK FORM-A form issued by the head administrator, counselor, or, if home schooled an instructor, of the school which a 14 or 15 year old minor attends certifying satisfactory grades and attendance of the minor in order for a 14 or 15 year old minor to be employed.

(4) EMPLOY-To employ or suffer to work with or without compensation.

(5) EMPLOYEE-Any individual employed or permitted to work by a person, entity, franchise, corporation, or division of a corporation, but shall not include an individual engaged in the activities of an educational, charitable, religious, scientific, historical, literary, or nonprofit organization where the employer-employee relationship does not, in fact, exist or where the services rendered are on a voluntary basis.

(6) EMPLOYER-Any owner or any person, entity, franchise, corporation, or division of a corporation, government agency, or association of persons acting directly as, or in behalf of, or in the interest of any employer in relation to employees, including the state and any political subdivision thereof.

(7) VIOLATION-A failure by an employer, officer, agent, or any other person to comply with any applicable provision of the Child Labor Law.

§25-8-33. Age Restrictions

No person under 16 years of age shall be employed, permitted, or suffered to work in any gainful occupation, except in agricultural service, and except as otherwise provided in this act. Any person 14 or 15 years of age may be employed outside school hours and during school vacation periods, so long as the person is not employed, permitted, or suffered work in, about, or in connection with, any manufacturing or mechanical establishment, cannery, mill, workshop, or machine shop or in any occupation or place of employment otherwise prohibited by law. The presence of any person under 18 years of age in any restricted business establishment or restricted occupation shall be prima facie evidence of his or her employment therein.

§25-8-34. Hazardous Declaration

The Alabama Department of Labor, hereinafter referred to as “the department”, may declare any place or occupation dangerous to life or limb or injurious to health or morals of person under 18 years of age.

§25-8-35. Prohibited Occupations-Under 16

No person under 16 years of age shall be employed, permitted, or suffered to work at any of the following occupations, positions, or places:

- (1) Operating or assisting in operating any sandpaper or wood polishing machinery, any washing, grinding, or mixing machinery, or commercial laundry equipment.
- (2) Operating or assisting in operating any machines used in picking wool, cotton, hair, or any other material.
- (3) In any work in or about a rolling mill, machine shop, or manufacturing establishment which is hazardous or dangerous to health, limb, or life.
- (4) In proximity to any hazardous or unguarded gearing.
- (5) Upon any vessel or boat engaged in navigation or commerce within the jurisdiction of this state.
- (6) In the manufacture or packing of paints, colors, or white or red lead.
- (7) In occupations causing dust in injurious quantities.
- (8) In soldering, brazing, heat treating, or welding.

(9) In the building trades, except that persons 14 or 15 years of age who are members of the immediate family of the contractor may be employed in trades involving nonhazardous duties or occupations.

(10) Repairing, painting, or cleaning buildings or structures while working at the top of ladders, lifts, or scaffolds exceeding a height of six feet.

(11) In connection with a junk or scrap metal yard.

(12) Assorting, manufacturing, or packing tobacco.

(13) Operating any automobile, truck, or motor vehicle, or flagging or directing traffic.

(14) In airport hangars or landing strips or taxi and maintenance aprons.

(15) In connection with any lumberyard.

(16) In any place or occupation which the department declares dangerous to life or limb or injurious to the health or morals of persons under 16 years of age.

(17) Selling of fireworks, unless under the direct supervision of an individual at least 18 years of age.

§25-8-36. Work Time Restrictions

(a) No person 14 or 15 years of age shall be employed, permitted, or suffered to work in any gainful occupation for more than six days in any one week, or for more than 40 hours in any one week, or for more than eight hours in any one day, or before 7:00 a.m. or after 9:00 p.m. during school summer vacation. During the time school is in regular session, no person 14 or 15 years of age shall be employed, permitted, or suffered to work in any gainful occupation for more than six days in any one week, or for more than eight hours on a non-school day, or more than three hours on a school day, or for more than 18 hours in any school week, and not before 7:00 a.m. or after 7:00 p.m.

(b) No person 16, 17 or 18 years of age who is enrolled in any public or private primary or secondary school system, shall work between 10:00 p.m. and 5:00 a.m. on any night preceding a school day. The appropriate county or city superintendent of schools, or where there is no superintendent, the school headmaster, may grant exemptions to the above time restrictions. Exemptions shall be granted only when the individual circumstances are found to be in the best interests of the minor. Information of any exemptions granted shall be transmitted to the Chief Child Labor Inspector on a form authorized by him or her.

§25-8-37. School Hours

(a) No person under 16 years of age shall be employed, permitted, or suffered to work in any occupation during the hours in which the public schools of the district in which the person resides are in session, unless the minor has completed the course of study required for secondary schools. Persons 14 or 15 years of age, when school attendance has been waived, may, upon recommendation of the local superintendent of education and approval by a child labor inspector, be permitted to work in a non-hazardous occupation.

(b) Employment authorized by this section shall not be for more than eight hours in any one day, or for more than 40 hours in any one week, or for more than six days in any one week, and not before 7:00 a.m. or after 9:00 p.m.

§25-8-38. Recording Keeping and Posting Requirements

(a) Every employer shall keep posted in a conspicuous place where any person under 19 years of age is employed, permitted, or suffered to work, a printed notice stating the maximum number of hours persons under 19 years of age may be permitted to work on each day of the week as set out in Section 25-8-36. The printed form of the notice shall be furnished by the department. The employment of any person for a longer time period in any day so stated, or at any time other than as stated in the printed form of notice, shall be deemed a violation of this chapter.

(b) Each employer shall keep on or about the premises at which any person under 19 years of age is employed a separate file for each employee under 19 years of age. The file shall contain the employee's name, home address, date of birth, date of hire, proof of age, school of attendance, and time records which shall state the number of hours worked each day, starting and ending times, break times as listed in Section 25-8-38(c), and any other information the department may require. The employer shall verify each minor's age using documents recognized by the Federal Employees Identification Laws. The employer shall keep these records on file for not less than three years.

(c) No person 14 or 15 years of age shall be employed for more than five hours continuously without a documented interval of at least 30 minutes for a meal or rest period. Any meal or rest period of less than 30 minutes shall not be considered to interrupt a continuous period of work.

§25-8-39. Street Trades and Exemptions

(a) No person under 14 years of age shall distribute, sell, expose, or offer for sale newspapers, magazines, periodicals, candy, or other articles, be employed or

permitted or suffered to work in any other trade or occupation performed in any street or public place.

(b) The following organizations are exempt from the requirements of Section 25-8-39(a): Educational, charitable, religious, scientific, historical, literary, or nonprofit organization where the employer-employee relationship does not, in fact, exist or where the services rendered to such organization are on a voluntary basis or any other activity as designated by the commissioner.

§25-8-40. Work Time Restrictions-Street Trades

(a) No person under 16 years of age shall engage in any of the occupations mentioned in §25-8-39 after 7:00 p.m. or before 5:00 a.m. of any day.

(b) No person, entity, franchise, corporation, or division of a corporation shall employ, permit, or suffer a minor under 16 years of age to work at any of the occupations mentioned in Section 25-8-39 after 7:00 p.m. or before 5:00 a.m. of any day.

§25-8-42. Juvenile Delinquents

Any person who engages in any street occupation in violation of Section 25-8-39, 40, 41 may be deemed delinquent and brought before any court having jurisdiction over juvenile delinquents.

§25-8-43. Prohibited Occupations-Under 18

(a) No person under 18 years of age shall be employed or permitted or suffered to work at any of the following occupations, positions, or places:

- (1) In or about or in connection with any mine, coke breaker, coke oven, or quarry in any capacity.
- (2) In wrecking, demolition, and ship breaking.
- (3) In any tunnel or excavation with a depth of four feet or more.

- (4) In any roofing, scaffolding, or sandblasting operations.
- (5) Operating or driving any truck or heavy equipment over three tons gross weight.
- (6) In logging or around any sawmill, lath mill, shingle, or cooperage-stock mill.
- (7) Operating any power-driven woodworking, bakery, or paper products machinery.
- (8) Upon any steam, electric, diesel, hydraulic, or other railroad.
- (9) As firefighters.
- (10) Operating any stamping machines used in sheet metal or tin ware, or in paper or leather manufacturing, or washer or nut factories.
- (11) In or around any steam boiler or rolling mill machinery.
- (12) Operating any power-driven metal forming, cutting, straightening, drawing, punching, or shearing machines.
- (13) Operating or assisting in operating any elevators, open freight elevators, cranes, derricks, or other power-driven hoisting apparatus, with the exception of an unattended automatic passenger elevator.
- (14) Operating any paper cutting, stapling, corrugating, or punching machines.
- (15) Assembling, adjusting, cleaning, oiling, or servicing machinery in motion.
- (16) Operating any circular saws, band saws, or guillotine shears.
- (17) In or around any distillery where alcoholic beverages are manufactured, bottled, wrapped, or packed.
- (18) In the manufacture, storage, or transportation of explosive components.
- (19) In the manufacturing of brick, tile, or similar products.
- (20) In the manufacture or transportation of dangerous or toxic chemicals or compounds.

(21) In, about, or in connection with, poisonous dyes, dangerous or poisonous gases, compositions of lye in dangerous quantities, dangerous or poisonous acids, or pesticides.

(22) In any activity involving exposure to radioactive substances or ionizing radiation.

(23) Around asbestos or any other cancer-causing agents.

(24) Operating or assisting in operating any job, cylinder, or offset printing presses.

(25) In any activity involving slaughtering, butchering, and meat cutting.

(26) In any place or occupation which the department may declare dangerous to life or limb or injurious to the health or morals of persons under 18 years of age.

(b) This section shall not apply to persons 16 or 17 years of age enrolled in work-study, student-learner, cooperative education or similar programs in which the employment is an integral part of the course of study and is registered by the Bureau of Apprenticeship and Training of the United States Department of Labor or to employment procured and supervised through the Alabama Department of Education and approved by the Department of Labor.

§25-8-44. Alcoholic Beverages and Adult Establishments

(a) No person under 19 years of age shall be employed, permitted, or suffered to serve or dispense alcoholic beverages in any establishment where alcoholic beverages are sold, served, or dispensed for consumption on the premises.

(b) No person under 18 years of age shall work in that part of an establishment where alcoholic beverages are sold, served, or dispensed for consumption on the premises. Notwithstanding the foregoing, this section shall not prohibit the employment of persons 16 years of age or older as busboys, dishwashers, janitors, cooks, hostesses, or seaters restricted to leading patrons to seats; nor the employment of persons under 18 years of age as professional entertainers.

(c) Members of the immediate family of the owner or operator who are 14 or 15 years of age may be employed in such establishments provided they do not

serve, sell, dispense, or handle alcoholic beverages.

(d) No person under 18 years of age shall work or perform in any establishment, nude or nearly nude, in a manner or attire as to expose any portion of the pubic area, buttocks, anus, anal cleft, vulva, or genitals, or any simulation thereof, or show the covered male genitals in a discernible turgid state, or be attired in a manner as to expose to view the portion of the breast below the top of areola or any simulation thereof.

§25-8-45. Child Labor Certificates and Eligibility to Work forms

(a) No person under 16 years of age shall engage in any occupation mentioned in Section 25-8-39 unless he or she has secured and has with him or her an Eligibility to Work form as provided in this chapter.

(b) No person, entity, franchise, corporation, or division of a corporation shall employ, permit, or suffer to work any person 14 or 15 years of age in any occupation, except in agricultural service, unless the person, entity, franchise, corporation, or division of a corporation procures and keeps on file for the inspection by the officials charged with the enforcement of this act, an Eligibility to Work form for every person 14 or 15 years of age and a complete list of those persons 14 or 15 years of age employed therein.

(c) Any person, entity, franchise, corporation, or division of a corporation that wishes to employ, permit, or suffer to work any minor 14 or 15 years of age in any occupation, except in agricultural service, shall obtain a Class I Child Labor Certificate from the department for each location where a person, entity, franchise, corporation, or division of a corporation wishes to employ a minor 14 or 15 years of age. Such employment shall be in accordance with all other sections of this chapter.

(d) The certificate shall allow the employment of minors 14 or 15 years of age to work only outside of school hours or during vacation periods and only in occupations not prohibited by this chapter for persons of these ages.

(e) The employment of a minor 14 or 15 years of age shall be revoked or suspended by the department if the minor's regular school attendance and performance record is not satisfactory to the head administrator or, if home schooled an instructor of the school which the minor attends. The revocation or suspension shall be processed by the department upon notification by the school.

(f) Any person, entity, franchise, corporation, or division of a corporation that wishes to employ, permit, or suffer to work any minor 16 or 17 years of age in any occupation, except in agricultural service, shall obtain a Class II Child Labor Certificate from the department for each location where a person, entity,

franchise, corporation, or division of a corporation wishes to employ a minor 16 or 17 years of age. Such employment shall be in accordance with all other sections of this chapter.

(g) The department shall issue Class I and Class II Child Labor Certificates to any person, entity, franchise, corporation, or division of a corporation that applies to the department. The fee for a Class I or Class II Child Labor Certificate shall be fifteen dollars (\$15). The certificates shall be issued annually.

(h)(1) The application for the child labor certificate shall contain all of the following information specific to the location of the minor's employment:

- a. The name, address, and telephone number of the person, entity, franchise, corporation, or division of a corporation that wishes to employ, permit, or suffer to work any minor.
- b. The type of business or entity, the federal employer identification number, the names of all incorporators, owners, members, or partners of the business entity.
- c. Any other information as required by department regulation.

(2) The Class I and Class II Child Labor Certificates shall contain all of the following information:

- a. The name of the employer.
- b. The type of business the employer maintains.
- c. Any other information as required by department regulation.

(3) If a person, entity, franchise, corporation, or division of a corporation employs a minor between 14 and 17 years of age without a proper child labor certificate, the person, entity, franchise, corporation, or division of a corporation shall pay a penalty of fifty dollars (\$50) and then shall obtain a certificate in the proper manner.

§25-8-46. Eligibility to Work Form-Administration

(a) The head administrator, counselor, or, if home schooled an instructor, of the school which the minor attends, shall issue Eligibility to Work forms. No person employed by any person, entity, franchise, corporation, or division of a corporation employing minors may issue an Eligibility to Work form.

(b) An Eligibility to Work form shall allow the employment of a person 14 or 15 years of age who is doing satisfactory work to work only outside school hours or

during vacation periods, and only in occupations not prohibited by this chapter for persons of these ages.

§25-8-51. Cancellation of Certificates

Any official charged with the enforcement of this act may cancel any child labor certificate found to be illegally or improperly obtained. When the certificate is cancelled, the employer shall be notified, and thereafter it shall be unlawful to employ minors under that certificate. A minor may be re-employed after a new child labor certificate is properly issued in accordance with this chapter.

§25-8-52. Inspections

The department shall have the right to enter, without prior notice or warrant, any business establishment for the purpose of routine inspections. These visits shall be conducted as frequently as needed to insure that minors are employed in compliance with this act. The department shall enforce this act and shall institute prosecution for any violation of this act.

§25-8-53. Right of Access

Every school attendance officer shall report to the department every known violation of this act. School attendance officers shall have the same right of access to and inspectors of establishments where minors are or may be employed or detained as is given by law to the department. A report of every entry and inspection of those establishments shall be made to the department. School attendance officers, when authorized by the department, may institute prosecutions.

§25-8-54. Sanitary Facilities

Every person, firm, or corporation owning or controlling any establishment wherein minors are employed shall keep the establishment in a sanitary condition and properly ventilated, and shall provide suitable and convenient restrooms, separate for each sex, and in the number and locations required by the department. When 20 or more persons are employed, sanitary drinking fountains shall be provided in the number the department deems necessary. All restrooms shall be maintained inside the establishments, except in situations in which it is impracticable, in the opinion of the department.

§25-8-55. Reporting of Unsanitary Conditions

The department shall inspect thoroughly every establishment wherein persons subject to this act are employed and shall issue a written order for the correction of unsanitary or unhealthy conditions in those establishments and shall report those conditions to public health officials.

§25-8-56. Removal of Minors

The department shall remove from any establishment any minor found employed or working, contrary to law, or who is afflicted with any infectious, contagious, or communicable disease, or whose physical condition is such that it makes it hazardous for the person to perform the work.

§25-8-57. Whistleblower Provision

(a) No person shall discriminate against any individual because the individual has opposed any act or practice made unlawful by this act or because the individual made a charge, testified, assisted, or participated in any manner in an investigation, proceeding, or hearing under this act.

(b) No employer, agent of an employer, or any other person shall discharge or otherwise discipline, threaten, harass, blacklist, or in any other manner discriminate against an applicant, employee, former employee, or any other person because that individual disclosed any information not prohibited from disclosure by statute, refused to obey an illegal order, or in any other manner not prohibited by statute challenged or revealed any violation of this chapter.

§25-8-59. Penalties

(a) Any person, entity, franchise, corporation, or division of a corporation who violates this chapter, or who fails or refuses to obey within a reasonable time any lawful order or direction given by the state officials charged with the enforcement of this chapter, and any parent, guardian, or custodian who suffers or permits a person under his or her care or control who is under 19 years of age to work in violation of this chapter, shall be subject to civil penalties in addition to other penalties provided in this chapter.

(b) The department may impose a civil penalty of three hundred dollars (\$300) upon the following determination: An employer has violated a statutory provision of Section 25-8-35(17), 25-8-36, 25-8-37, 25-8-38, 25-8-39, 25-8-40, 25-8-41, 25-8-44, 25-8-45, 25-8-54, 25-8-57, 25-8-60, or 25-8-61.

(c) The department may impose a civil penalty of five thousand dollars (\$5,000) upon the following determination: An employer has violated a statutory provision of Section 25-8-35(1)-(16) or 25-8-43(a).

(d) In determining the number of violations committed by an employer, the department shall assess a separate civil penalty for each individual employee affected by the employer's violation.

(e) In addition, the department may assess more than one civil penalty against an employer with respect to the same adversely affected employee if the employer has violated more than one statutory provision in this bill.

(f) The employer shall be notified of a civil penalty assessment by the "Notice of Violation and Opportunity to Show Cause" which shall be sent to the employer.

(g) The "Notice of Violation and Opportunity to Show Cause" shall provide all of the following:

(1) The total civil penalty assessed.

(2) The right of the employer to request in writing a hearing to show cause why the civil penalty should not be assessed.

(3) An advisement that no hearing shall be granted unless a written request for a hearing is received by the department within 30 days from the date of issue of the notice.

(4) The right of the employer to waive the right to request a hearing and to respond in writing to the notice within 30 days of the issue date of the notice.

(h) Any employer who seeks to contest a civil penalty assessment shall file, within 30 days from the date the "Notice of Violation and Opportunity to Show Cause" was issued, a written request for an opportunity to be heard which shall clearly state the reasons for such request, including facts to demonstrate that no violation has occurred.

(i) If the commissioner or his or her designee determines that the employer has stated adequate facts or legal grounds to warrant a hearing, the commissioner or his or her designee shall provide written notice of the hearing to show cause why a civil penalty should not be assessed and shall mail written notice to the employer of the date, time, and place of the hearing. Such determination shall be within the discretion of the commissioner or his or her designee. The notice shall inform the employer of its rights in the hearing including the following:

(1) The right to be represented by any person, including an attorney.

(2) The right to present documentary evidence and a written argument in support of the employer's position.

(j) A request for postponement of a hearing so scheduled shall only be granted where the rights of an employer would be substantially prejudiced by the denial of the request or in a medical emergency. Only the commissioner or his or her designee has discretion to grant such requests.

(k) Following a hearing or after the employer has waived the right to request a hearing, the commissioner or his or her designee may uphold or modify the civil penalty assessment such determination shall be within the sole discretion of the commissioner or his or her designee.

(l) If the employer requests a hearing but the commissioner or his or her designee denies the request for a hearing, the total civil penalty assessed in the notice shall be the final civil penalty.

(m) If the employer does not request a hearing or respond in writing to the notice, the total civil penalty assessed in the notice shall be the final civil penalty unless otherwise modified by the commissioner or his or her designee.

(n) All moneys received from the assessment of any penalty pursuant to this section shall accrue to the State General Fund.

(o) In addition to the civil penalties provided for in subsection (b), an employer who violates this act may be deemed guilty of a Class B or Class C misdemeanor. A first conviction shall be deemed a Class C misdemeanor. A second or subsequent conviction shall be deemed a Class B misdemeanor.

(p) In addition to civil penalties provided for in subsection (c), an employer who is found in violation of subsection (c) of this act involving serious physical injury to or death of a minor may be deemed guilty of a Class A misdemeanor or Class C felony. A first conviction shall be deemed a Class A misdemeanor. A second or subsequent conviction shall be deemed a Class C felony.

§25-8-60. Child Actors and Performers

Time and hour restrictions shall be under the authority of the department for persons under 18 years of age who are employed as actors and performers. Persons may be employed and appear for the purpose of singing, acting, or performing in any studio or movie set of a motion picture approved and coordinated by the Alabama Film Office in conjunction with and under the jurisdiction and supervision of the department. A person under 18 years of age may be employed as provided in this section only under the following conditions and with the written consent of the Alabama Film Office, the department, and the parent, legal guardian, or responsible adult of the person:

(1) The activities enumerated shall not be detrimental to the life, health, safety, welfare, or morals of the person.

(2) The activities enumerated shall not interfere with the schooling of the person and provisions shall be made for education equivalent

to full-time school attendance in the public schools for persons under 16 years of age.

(3) A parent, guardian, or a responsible adult so designated by the parent or guardian, shall accompany each person under 16 years of age at all rehearsals, appearances, and performances.

§25-8-61. Child Models

(a) Time and hour restrictions shall under the authority of the department for persons under 18 years of age who are employed as models. Notwithstanding the foregoing, no person under 16 years of age shall work any hours that interfere with his or her school performance.

(b) Any person, firm, agency, or corporation that employs, permits, or suffers any person under 18 years of age to be used in any type of modeling shall have written consent from the parent or guardian of the person, and shall notify the Child Labor Division on a form authorized by the department, and shall comply with all of the following conditions:

(1) The parent of the person shall not let the modeling interfere with that person's school performance.

(2) The activities enumerated shall not be detrimental to the life, health, safety, welfare, or morals of the person.

(3) A parent, guardian, or a responsible adult so designated by the parent or guardian shall accompany each person under 16 years of age to all sessions.

Section 4. All laws or parts of laws which conflict with this act are repealed, and Sections 25-8-41, 25-8-47, 25-8-48, 25-8-49, 25-8-50, and 25-8-58, Code of Alabama 1975, are specifically repealed.

Section 5. This act shall become effective immediately following its passage and approval by the Governor, or its otherwise becoming law.